

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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| UNITED STATES OF AMERICA, |) | CIVIL NO. 91-00137 DAE-KSC |
| |) | |
| Plaintiff, |) | SPECIAL MASTER'S REPORT |
| |) | REGARDING BENCHMARKS; |
| vs. |) | EXHIBIT A |
| |) | |
| STATE OF HAWAI'I, et. al., |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

SPECIAL MASTER'S REPORT REGARDING BENCHMARKS

On March 24, 2006, United States District Judge David Ezra entered an Order Adopting and Approving Eleventh Report and Recommendation in this case. Because the Court had a concern that Defendants were not putting forth their reasonable best efforts to achieve substantial compliance with the Plan for Community Mental Health Services ("Community Plan") by the June 30, 2006 deadline required by the Joint Stipulation and Order Regarding Plan for Community Mental Health Services filed on October 25, 2005 ("Joint Stipulation"), the Court directed counsel to meet with the Special Master for the purpose of

identifying and agreeing on benchmarks with an April 30, 2006 deadline in a limited number of subject areas of the Community Plan which would prove that Defendants are putting forth their reasonable best efforts to achieve timely compliance with the Community Plan.

Counsel met with the Special Master and were unable to reach agreement upon a stipulation for presentation to the court regarding the April 30, 2006 benchmarks referred to herein above. As a result, the Special Master identified benchmarks in a limited number of subject areas for the parties. See Findings and Recommendation Regarding Benchmarks filed on April 10, 2006.

Kris McLoughlin, the court appointed Special Monitor has provided technical assistance to the Adult Mental Health Division of the Department of Health and monitored Defendants' efforts to meet the benchmarks since April 10, 2006.

On April 28, 2006, Defendants submitted a binder of documents intended to demonstrate their compliance with the above-referenced Orders and Findings and

Recommendation.

Kris McLoughlin, the court appointed Special Monitor reviewed the Defendants' written submission and has reported to the Special Master regarding Defendants' efforts to meet the benchmarks.

Additionally, the Special Monitor submitted a chart to the Special Master which presents her findings and comments regarding the benchmarks. In pertinent part, the Special Monitor found that, except for one item, the status of all of the benchmarks in the areas of Forensics, Case Management, Crisis and Treatment Planning were "complete". A copy of the Special Monitor's chart is attached as Exhibit "A" to this Report and Recommendation.

After reviewing Defendants' written submissions, conferring with the Special Monitor and reviewing her findings and comments, the Special Master finds that Defendants have established that they are putting forth reasonable best efforts to achieve substantial compliance with the Community Plan by June 30, 2006.

The Special Master commends the efforts of the

Adult Mental Health Division and defense counsel for their focus and concerted effort on the benchmarks and the Community Plan. The Special Master also appreciates the efforts of the Special Monitor working in conjunction with the Adult Mental Health Division. Significant work was accomplished by Defendants in a short period of time.

The Special Master strongly encourages Defendants and the Adult Mental Health Division to maintain the momentum built over the past few weeks and keep up the good work.

The June 30, 2006 compliance deadline is approaching, but achieving substantial compliance with the Community Plan is not an impossibility for Defendants and the direct benefit to mental health consumers and the public resulting from Defendants' efforts is certainly worth Defendants' extraordinary effort. The approach taken by the Adult Mental Health Division with regard to the benchmarks is suitable for use and application to the Community Plan as a whole.

The final visit by the Special Master's Evaluation

Team is scheduled for the week of June 26, 2006.

Following completion of their site visit, the members of the Evaluation Team will submit written reports to the Special Master. In the event that Defendants are unable to achieve substantial compliance with the Community Plan by June 30, 2006, consistent with the intent of the parties and the plain language of the Joint Stipulation, the Special Master will request the Evaluation Team to include specific recommendations in their reports on how Defendants can nevertheless achieve substantial compliance with unmet provisions of the Community Plan, if any, by November 30, 2006.

Based on the foregoing, the Special Master recommends that no further action be taken by the Court with regard to the Order Adopting and Approving Eleventh Report and Recommendation.

IT IS SO FOUND AND RECOMMENDED.




Kevin S.C. Chang
United States Magistrate Judge